

1 Robert García – State Bar No. 84898  
2 CENTER FOR LAW IN THE  
3 PUBLIC INTEREST  
4 1055 Wilshire Blvd., Suite 1660  
5 Los Angeles, California 90017  
6 Telephone: (213) 977-1035  
7 Facsimile: (213) 977-5457

8 Thomas R. Freeman - State Bar No. 135392  
9 Jennifer L. Coon - State Bar No. 203913  
10 David D. Leshner - State Bar No. 207815  
11 BIRD, MARELLA, BOXER, WOLPERT,  
12 NESSIM, DROOKS & LINCENBERG, P.C.  
13 1875 Century Park East, 23rd Floor  
14 Los Angeles, California 90067-2561  
15 Telephone: (310) 201-2100  
16 Facsimile: (310) 201-2110

17 Attorneys for Plaintiffs CANYON BACK  
18 ALLIANCE, INC. and SAVE OUR  
19 MOUNTAINS, INC.

20  
21 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
22 **FOR THE COUNTY OF LOS ANGELES, CENTRAL DISTRICT**  
23

24 CANYON BACK ALLIANCE, INC.,  
25 a California non-profit public benefit cor-  
26 poration; SAVE OUR MOUNTAINS,  
27 INC., a California non-profit public benefit  
28 corporation

Plaintiffs,

vs.

CASTLE & COOKE CALIFORNIA,  
INC., a California corporation; C&C  
MOUNTAINGATE, INC., a California  
corporation; PROMONTORY ESTATES  
FINIS CONDOMINIUM HOMEOWN-  
ERS ASSOCIATION; STONEY HILL  
SECURITY ASSOCIATION; MOUN-  
TAIN VIEW HOMEOWNERS ASSO-  
CIATION; and Does 1 to 100, inclusive,

Defendants.

CASE NO.

**COMPLAINT FOR:**

**(1) QUIET TITLE**

**(2) INJUNCTIVE AND DECLARATORY  
RELIEF**

1 Plaintiffs Canyon Back Alliance, Inc., and Save Our Mountains, Inc. (collectively,  
2 “Plaintiffs”) allege as follows:

3 **THE PARTIES**

4 1. Plaintiff Canyon Back Alliance, Inc. (“CBA”), a California non-profit public  
5 benefit corporation, is dedicated to the protection of public access to recreational trails in the  
6 Santa Monica Mountains.

7 2. Plaintiff Save Our Mountains, Inc. (“SOMI”), a California non-profit public  
8 benefit corporation, is dedicated to protecting open space and public recreational access to  
9 trails in the Santa Monica Mountains.

10 3. Defendant C&C Mountaingate, Inc. is a corporation organized and existing un-  
11 der the laws of the State of California with its principal place of business in Los Angeles, Cali-  
12 fornia.

13 4. Defendant Castle & Cooke California, Inc. is a corporation organized and exist-  
14 ing under the laws of the State of California with its principal place of business in  
15 Los Angeles, California. Collectively C&C Mountaingate, Inc. and Castle & Cooke Califor-  
16 nia, Inc. are referred to as the “Developer Defendants.”

17 5. Defendants Promontory Estates Finis Condominium Homeowners Association,  
18 Stoney Hill Security Association and Mountain View Homes Homeowners Association are  
19 security and homeowner associations within the Mountaingate community in the Brentwood  
20 area of Los Angeles (collectively the “Mountaingate Defendants”) responsible for or other-  
21 wise interested in maintaining gates and/or fences within the Mountaingate area that restrict  
22 public access to and along the Mt. St. Mary’s Trail (“MSM Trail”).

23 6. Plaintiffs are ignorant of the true names and capacities of defendants sued herein  
24 as Does 1 to 100, and therefore sue these defendants by such fictitious names. Plaintiffs will  
25 amend this complaint to allege their true names and capacities when ascertained. Plaintiffs are  
26 informed and believe, and thereon allege, that each of the fictitiously named defendants claim  
27 some right, title, estate, lien or interest in the above-described property that is adverse to the  
28

1 public's rights and interests asserted by Plaintiffs, or that is or may be a cloud on said rights  
2 and interests.

3 **GENERAL ALLEGATIONS**

4 7. The MSM Trail is located in the Brentwood area of Los Angeles County. The  
5 current alignment of the MSM Trail runs north from behind Mount St. Mary's College, along  
6 the Mt. St. Mary's Fire Road, until it merges into and becomes Stoney Hill Road, a public  
7 street within the Mountaingate residential development. From Stoney Hill Road, the MSM  
8 Trail connects to Canyonback Trail on Canyonback Road via Mountaingate Drive, a public  
9 street, *and* Promontory Road, a private street. The fire road and streets that comprise the  
10 MSM Trail are depicted in the Thomas Guide for Los Angeles County at page 591 (Rand  
11 McNally 2004), a copy of which is attached as Exhibit 1.<sup>1</sup>

12 8. The public has enjoyed recreational use of the MSM Trail since at least the  
13 1950s. Before the Mountaingate community was developed, a process that began in the late  
14 1970s, the MSM and Canyonback trails were directly connected, as depicted in Exhibit 2,  
15 which is printed from a high resolution scanned photographic image of the area taken in 1967  
16 by the U.S. Dept. of Interior, U.S. Geological Survey.<sup>2</sup>

17 9. Plaintiffs allege, on information and belief, that the MSM Trail is an established  
18 footway used by the public without objection or interference for decades, including a period  
19 substantially longer than five years prior to March 1972, dating back at least to the 1950s. The  
20 public's use of the MSM Trail prior to March 1972 was continuous, regular and open and  
21 thereby sufficient to convey to the property owner notice that the public was using the MSM  
22 Trail as if it had a right to do so. This long history of continued passage along the MSM Trail  
23 by a diverse group of hikers, equestrians, joggers, and bicyclists for recreational and educa-  
24

25 \_\_\_\_\_  
26 <sup>1</sup> The attached exhibits are incorporated into the complaint.

27 <sup>2</sup> The image is available for purchase from the U.S. Geological Society.  
28

1 tional purposes was sufficient to (1) infer an adverse claim and adverse users and (2) impute  
2 constructive knowledge thereof to the property owner.

3 10. At a time unknown to Plaintiffs, the Developer Defendants purchased real prop-  
4 erty encompassing a portion of the MSM Trail, as depicted in Exhibit 3, which is a portion of  
5 the Developer Defendants' proposed tract map, submitted to the City of Los Angeles and at-  
6 tached to the Environmental Impact Report for the Defendant Developers' construction pro-  
7 ject. In approximately August 2005, the Developer Defendants closed and locked a metal gate  
8 and fence across the MSM Trail. The gate/fence is located on the Mt. St. Mary's Fire Road,  
9 south of the 22 lots depicted in Exhibit 3.

10 11. The locked gate and fence installed on the MSM Trail by the Developer Defen-  
11 dants is topped with "concertina wire," which is designed to and does prevent public access on  
12 the MSM Trail. It thereby severs the MSM Trail's connection with Canyonback Trail. By  
13 doing so, the Developer Defendants severed access from the MSM Trail to the Westridge-  
14 Canyon Back Wilderness Park, a series of dedicated recreational trails including the Canyon-  
15 back, Westridge and Sullivan Canyon trails, as depicted in Exhibit 4, an image available at the  
16 "Google Earth" website, [www.googleearth.com](http://www.googleearth.com). The Westridge-Canyon Back trails, in turn,  
17 are connected to and are part of the 20,000-plus acre "Big Wild" network of public trails in the  
18 Santa Monica Mountains.

19 12. Plaintiffs allege, on information and belief, that during or after the mid-1980s  
20 the Mountaingate Defendants erected or caused to be erected fences and gates at (1) the south-  
21 ern terminus of Stoney Hill Road; (2) the northern entrance to Stoney Hill Road; and (3) the  
22 western terminus of Promontory Road. Plaintiffs further allege, on information and belief,  
23 that the public was initially permitted to pass through the above-described gates/fences for  
24 purposes of utilizing the MSM Trail for non-vehicular recreational uses. Over time, however,  
25 the Mountaingate Defendants began to restrict public recreational access along the MSM  
26 Trail, utilizing the above-described gates/fences, until eventually public access was prohibited  
27 and, sometime in the mid-2000s, the gate/fence structures became impassible for public trail  
28

1 users. This elimination of public recreational access to and along the MSM trail has severed  
2 the historic connection between the MSM and Canyonback trails, as described above.

3 **FIRST CAUSE OF ACTION**

4 **(Quiet Title - Public Easement Acquired By Implied In Law Dedication)**

5 **(Against All Defendants)**

6 13. Plaintiffs incorporate the foregoing paragraphs by reference as though set forth  
7 fully herein.

8 14. Plaintiffs are informed and believe, and thereon allege, that the MSM Trail was  
9 used as a public footpath for decades prior to March 1972. Plaintiffs are informed and be-  
10 lieve, and thereon allege, that the MSM Trail has been used by a wide and diverse range of the  
11 public on foot, horseback and bicycle, for a wide range for recreational, educational and ac-  
12 cess purposes. These uses by the public occurred substantially, continuously, openly, under a  
13 claim of public right, and without interruption for at least five continuous years prior to March  
14 1972. These uses were in a manner that was substantial, diverse and sufficient to convey to  
15 the property owner that the public was using the MSM Trail as though they had a right to do  
16 so. The public used the MSM Trail without asking or receiving permission from anyone and  
17 until very recently without objection being made by anyone. Through this historic use, the  
18 public acquired an easement to the MSM Trail for public and recreational purposes, including  
19 walking, running, and riding horses and bicycles.

20 15. Plaintiffs bring this suit on their own behalf, and on behalf of the general public,  
21 to quiet the title of the public to the public right against defendants and their property.

22 16. Plaintiffs will suffer irreparable harm if defendants are not enjoined from inter-  
23 fering with or obstructing the public's use of the MSM Trail, and plaintiffs seek temporary,  
24 preliminary, and permanent injunctive relief to protect their right of access to the MSM Trail.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**SECOND CAUSE OF ACTION**  
**(Declaratory and Injunctive Relief)**  
**(Against All Defendants)**

17. Plaintiffs incorporate the foregoing paragraphs by reference as though set forth fully herein.

18. An actual controversy has arisen and now exists between Plaintiffs and defendants concerning their respective rights and duties in that Plaintiffs contend the public has a right to free unrestricted access to the MSM Trail and a public easement for use of such trail. Plaintiffs are informed and believe, and thereon allege, that defendants deny the public has any right of access or that the public is the owner of any easement along the MSM Trail.

19. A judicial declaration is necessary and appropriate at this time in order that Plaintiffs and the public may ascertain their rights and duties to use of and access to the MSM Trail.

20. Injunctive relief is necessary and appropriate to restore the public right of recreational access to and along the MSM Trail, thereby reconnecting the MSM and Canyonback trails.

**PRAAYER FOR RELIEF**

Wherefore, Plaintiffs pray as follows:

1. For a judgment that the public is the owner of a non-exclusive easement, for public and recreational purposes, over the MSM Trail and across defendants' property, and that defendants have no interest adverse to the public's interest;

2. For a declaration that the public is the owner of a non-exclusive easement, for public and recreational purposes, over the MSM Trail and across defendants' property, and that, pursuant to Civil Code § 1007, no title or interest adverse to said easement may be gained by attempting to block or otherwise obstruct its use;

3. For a preliminary and permanent injunction enjoining defendants and their agents, servants and employees, and all persons acting under, in concert with, or for them,

1 from interfering with or obstructing the public's use of the MSM Trail and ordering defen-  
2 dants to dismantle and remove any obstacles or signs obstructing said use;

3 4. For costs of suit incurred in this action;

4 5. For attorneys' fees pursuant to California Code of Civil Procedure § 1021.5;

5 6. For such and further relief as the Court deems just and proper.

6 DATED: May 7, 2006

BIRD, MARELLA, BOXER, WOLPERT,  
NESSIM, DROOKS & LINCENBERG, P.C.

7

8

9

By:   
Thomas R. Freeman

10

11

CENTER FOR LAW IN THE PUBLIC INTEREST

12 DATED: May 7, 2006

13

14

By:   
Robert Garcia

15

16

Attorneys for Plaintiffs CANYON BACK  
ALLIANCE, INC. and SAVE OUR MOUNTAINS,  
INC.

17

18

19

20

21

22

23

24

25

26

27

28

# Exhibit 1





591

49

90077

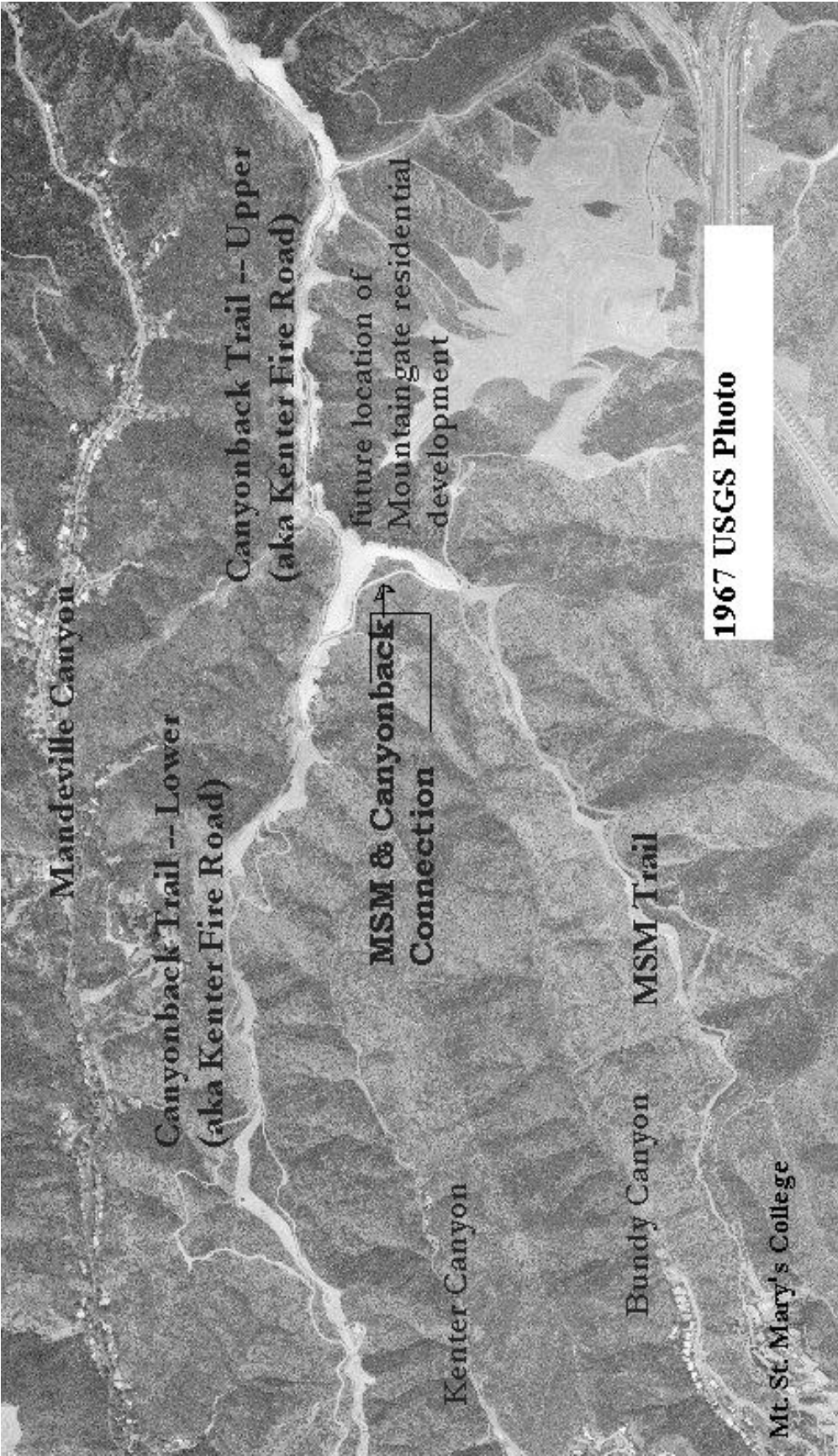
LOS ANGELES

BEL AIR ESTATES

SEL 592 MAP

631

# Exhibit 2



Mandeville Canyon

Canyonback Trail -- Lower  
(aka Kenter Fire Road)

Canyonback Trail -- Upper  
(aka Kenter Fire Road)

future location of  
Mountaingate residential  
development

MSM & Canyonback  
Connection

Kenter Canyon

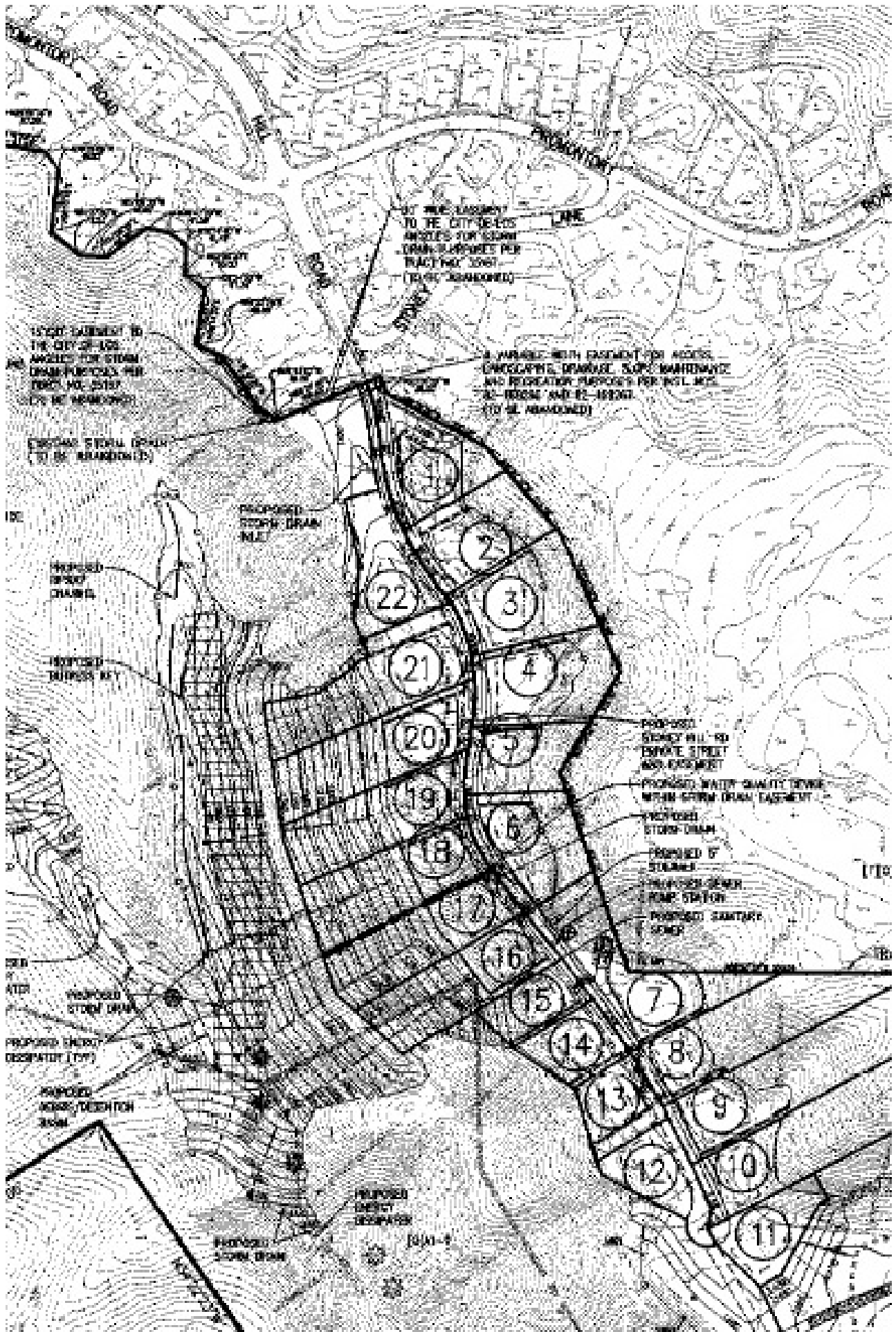
MSM Trail

Bundy Canyon

Mt. St. Mary's College

1967 USGS Photo

# Exhibit 3



LOT 22-100-11000 TO THE CITY OF LOS ANGELES FOR STORM DRAIN PURPOSES PER TRACT MAP 20867 (TO BE ABANDONED)

EXISTING STORM DRAIN (TO BE ABANDONED)

PROPOSED STORM DRAIN INLET

PROPOSED STORM DRAIN

PROPOSED STORM DRAIN

PROPOSED STORM DRAIN

PROPOSED ENERGY DEGRADER (170')

PROPOSED FORCE MAIN/DETECTION ROOM

LOT 22-100-11000 TO THE CITY OF LOS ANGELES FOR STORM DRAIN PURPOSES PER TRACT MAP 20867 (TO BE ABANDONED)

A VARIABLE WIDTH EASEMENT FOR ACCESS, ORNAMENTAL DRAINAGE, SLOPE MAINTENANCE AND RECREATION PURPOSES PER INCL. ACTS 22-10038 AND 22-10039 (TO BE ABANDONED)

PROPOSED STORM DRAIN INLET

PROPOSED STORM DRAIN

PROPOSED STORM DRAIN

PROPOSED STORM DRAIN

PROPOSED ENERGY DEGRADER (170')

PROPOSED FORCE MAIN/DETECTION ROOM

PROPOSED STORM DRAIN

PROPOSED STORM DRAIN

PROPOSED STORM DRAIN

PROPOSED STORM DRAIN

PROPOSED STORM DRAIN

PROPOSED STORM DRAIN

PROPOSED ENERGY DEGRADER

PROPOSED STORM DRAIN

PROPOSED SANITARY SEWER PUMP STATION

PROPOSED SANITARY SEWER

PROPOSED SANITARY SEWER

PROPOSED SANITARY SEWER

PROPOSED SANITARY SEWER

PROPOSED SANITARY SEWER

PROPOSED SANITARY SEWER

PROPOSED SANITARY SEWER

PROPOSED SANITARY SEWER

PROPOSED SANITARY SEWER

PROPOSED SANITARY SEWER

PROPOSED SANITARY SEWER

PROPOSED SANITARY SEWER

10E

17E

18E

10A1-6

# Exhibit 4

